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PTO/SB/21 (07-06)

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	10/052,199
Filing Date	January 16, 2002
First Named Inventor	SHENNIB, ADNAN
Art Unit	2643
Examiner Name	DIONNE HARVEY
Attorney Docket Number	022176-000610US

**ENCLOSURES (Check all that apply)**

- ☐ Fee Transmittal Form  
☐ Fee Attached  
☐ Amendment/Reply  
☐ After Final  
☐ Affidavits/declaration(s)  
☐ Extension of Time Request  
☐ Express Abandonment Request  
☐ Information Disclosure Statement

- ☐ Drawing(s)  
☐ Licensing-related Papers  
☒ Petition to Withdraw Holding of Abandonment  
☐ Petition to Convert to a Provisional Application  
☐ Power of Attorney, Revocation  
Change of Correspondence Address  
☐ Terminal Disclaimer  
☐ Request for Refund  
☐ CD, Number of CD(s) \_\_\_\_\_

- ☐ After Allowance Communication to TC  
☐ Appeal Communication to Board of Appeals and Interferences  
☐ Appeal Communication to TC (Appeal Notice, Brief, Reply Brief)

- ☐ Proprietary Information  
☐ Status Letter  
☒ Other Enclosure(s) (please identify below):

Return Postcard;  
Copy of 4/12/04 RCE submission;  
Copy of 5/13/04 IDS submission;  
Copy of 9/13/04 Revocation of POA and Change of Corres. address submission;  
Copy of 9/22/05 acceptance of POA;  
Copy of 10/17/05 Suppl. Notice of Allowability; and  
Copy of 4/18/06 abandonment notice.

- ☐ Certified Copy of Priority Document(s)  
☐ Reply to Missing Parts/ Incomplete Application  
☐ Reply to Missing Parts under 37 CFR 1.52 or 1.53

Remarks The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm Name	Townsend and Townsend and Crew LLP
Signature	
Printed name	Joel M. Harris
Date	09/19/2006

Reg. No.	44,743
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**CERTIFICATE OF TRANSMISSION/MAILING****Express Mail Label: EV 824 642 598 US**

I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 on this date **09/19/2006** and is addressed to: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature	
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Typed or printed name	Lisa McDill
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Date	09/19/2006
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I hereby certify that this correspondence is being deposited with the United States Postal Service with "Express Mail Post Office to Address" service under 37 CFR 1.10 and is addressed to: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450:

Express Mail Label No.: EV 824 642 598 US

On September 19, 2006

TOWNSEND and TOWNSEND and CREW LLP

By: [Signature]

Lisa McDill



PATENT  
Attorney Docket No.: 022176-000610US  
Client Ref. No.: ISM-006CNT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

ADNAN SHENNIB et al.

Application No.: 10/052,199

Filed: January 16, 2002

For: DISPOSABLE EXTENDED WEAR  
CANAL HEARING DEVICE

Customer No.: 20350

Confirmation No.: 9072

Examiner: DIONNE PENDLETON

Technology Center/Art Unit: 2643

**PETITION TO WITHDRAW HOLDING  
OF ABANDONMENT UNDER 37 CFR  
1.137**

Mail Stop Petition  
Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants are in receipt of the 7/19/06 decision regarding applicants petition to withdraw the notice of abandonment mailed April 18, 2006 (indicating the above-identified application has been abandoned for failure to pay issue fee and publication fee). Applicants respectfully request reconsideration of the petition. As is explained below, Applicants submit that the holding of abandonment was improper and respectfully requests withdrawal of the holding of abandonment.

The timeline of relevant events in the case is as follows. Applicants prior representative had received a Notice of Allowance of 1/13/2004. On 4/12/2004 Applicants had

PATENT

Attorney Docket No.: 022176-000610US

Client Ref. No.: ISM-006CNT

the current representative file an RCE (in order to submit an IDS) and paid the fee for an RCE under 37 CFR 1.17i for suspension of action. Applicants filed an IDS on 5/11/04. Applicants then received a Supplemental Notice of Allowability on October 17, 2005 but did **not** receive with that document any paperwork related to a Notice of Allowability and Fee(s) due. Also, there was no indication on PAIR of an issue fee deadline associated with the 10/17/05 Notice and no indication of any notice of allowance from 09/10/04.

The crux of the decision on the 5/25/06 petition appears to be based on the contention that there was a Notice of Allowance mailed 9/10/04 (e.g., page 1 of the decision indicates that the application went abandoned for not filing a response to the 9/10/04 Notice). Applicants respectfully point out that they never received the 9/10/04 Notice of Allowance. Nor did applicants see the 9/10/04 notice on PAIR prior to the filing of the 5/25/06 petition. Importantly, Shemekia Brown (the secretary for Applicants representative) was on the phone with Examiner Pendleton on 5/05/06 while both were looking at PAIR and both agreed that the 9/10/04 Notice was not on PAIR at that time. Applicants note that they noticed the 9/10/04 Notice did appear on PAIR after they filed the 5/25/06 petition, but at no time before the filing of the petition did they see the 9/10/04 Notice on PAIR.

Applicants also wish to respectfully point out that the Patent Office itself deemed that the application was still pending on 10/17/05 as evidenced by the Supplemental Notice of Allowance mailed on 10/17/05. The Supplemental Notice indicated that claims were allowed and that it was responsive to Applicants IDS filed on 5/11/04. No where on the 10/17/05 Notice did the Patent Office indicate that the application had gone abandoned.

Thus, the holding of abandonment was improper in three respects. First, Applicants' representatives never received the 9/10/04 Notice of Allowance. Second, the Patent office itself held that the application was pending as of 10/17/05 as evidenced by the 10/17/05 Supplemental Notice of Allowability. Third, no Notice of Fee(s) Due was issued in connection with the 10/17/05 Supplemental Notice of Allowability and the 4/12/04 RCE should have negated the requirement for responding to the issue fee payment deadline from the 1/13/2004 Notice of Allowance.

PATENT

Attorney Docket No.: 022176-000610US

Client Ref. No.: ISM-006CNT

For all the reasons above, Applicants respectfully request withdrawal of the holding of abandonment. If a telephone conference would expedite the granting of this petition, please telephone the undersigned at 650-326-2400.

Also, because Applicants were not responsible for the holding of abandonment, Applicants respectfully submit that no fee should be do with this petition. Applicants were also informed of such by Examiner Pendleton.

In support of Applicants petition enclosed herewith are the following:

1. A copy of the RCE filed on April 12, 2004.
2. A copy of the Information Disclosure Statement filed May 11, 2004 with thirty-five (35) references cited.
3. A copy of the Revocation of Power of Attorney with a New Power of Attorney and Change of Correspondence Address filed on September 13, 2004.
4. A copy of the Notice of Acceptance of the Power of Attorney that was mailed September 22, 2005.
5. A copy of the Supplemental Notice of Allowability mailed October 17, 2005.
6. A copy of the Notice of Abandonment mailed April 18, 2006.

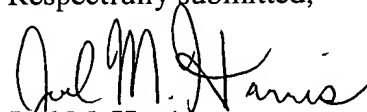
PATENT

Attorney Docket No.: 022176-000610US

Client Ref. No.: ISM-006CNT

It is believed that no fees are due with this petition; however, should any fees be required under 37 C.F.R. § 1.16 to 1.21 and 1.137 or other relevant portion of 37 CFR for any reason, the Commissioner is authorized to charge Deposit Account No 20-1430.

Respectfully submitted,



Joel M. Harris  
Reg. No. 44,743

TOWNSEND and TOWNSEND and CREW LLP

Two Embarcadero Center, Eighth Floor

San Francisco, California 94111-3834

Tel: 650-326-2400

Fax: 415-576-0300

Attachments

JMH:snb

60872721 v1



**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
Request for Continued Examination  
FILING ACKNOWLEDGMENT

Mailing Date:	April 12, 2004	Serial No.:	10/052,199
File No.:	022176-000610US / ISM-0006CNT	Attorney:	JMH/jke
Applicant:	ADNAN SHENNIB et al.		
Title:	DISPOSABLE EXTENDED WEAR CANAL HEARING DEVICE		

Please stamp the date of receipt of the enclosed documents and return this card to addressee

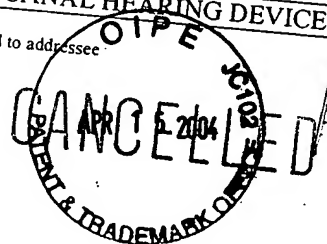
- ✓ 1 pg. Transmittal
- ✓ 2 pgs. Fee Transmittal (duplicate)
- ✓ 1 pg. Preliminary Remarks\
- ✓ 1 pg. Request for Continued Examination (RCE)Transmittal
- ✓ 1 pg Return Postcard
- 6 pages

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**  
Request for Continued Examination  
FILING ACKNOWLEDGMENT

Mailing Date:	April 12, 2004	Serial No.:	10/052,199
File No.:	022176-000610US / ISM-0006CNT	Attorney:	JMH/jke
Applicant:	ADNAN SHENNIB et al.		
Title:	DISPOSABLE EXTENDED WEAR CANAL HEARING DEVICE		

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- ✓ 1 pg Return Postcard
- 6 pages





<b>TRANSMITTAL FORM</b> <i>(to be used for all correspondence after initial filing)</i>		Application Number	10/052,199
		Filing Date	January 16, 2002
		First Named Inventor	SHENNIB, ADNAN
		Art Unit	2643
		Examiner Name	DIONNE HARVEY
Total Number of Pages in This Submission	6	Attorney Docket Number	022176-000610US / ISM-006CNT

ENCLOSURES (Check all that apply)		
<input checked="" type="checkbox"/> Fee Transmittal Form <input type="checkbox"/> Fee Attached <input type="checkbox"/> Amendment/Reply <input type="checkbox"/> After Final <input type="checkbox"/> Affidavits/declaration(s) <input type="checkbox"/> Extension of Time Request <input type="checkbox"/> Express Abandonment Request <input type="checkbox"/> Information Disclosure Statement <input type="checkbox"/> Certified Copy of Priority Document(s) <input type="checkbox"/> Response to Missing Parts/Incomplete Application <input type="checkbox"/> Response to Missing Parts under 37 CFR 1.52 or 1.53	<input type="checkbox"/> Drawing(s) <input type="checkbox"/> Licensing-related Papers <input type="checkbox"/> Petition <input type="checkbox"/> Petition to Convert to a Provisional Application <input type="checkbox"/> Power of Attorney, Revocation Change of Correspondence Address <input type="checkbox"/> Terminal Disclaimer <input type="checkbox"/> Request for Refund <input type="checkbox"/> CD, Number of CD(s)	<input type="checkbox"/> After Allowance Communication to Group <input type="checkbox"/> Appeal Communication to Board of Appeals and Interferences <input type="checkbox"/> Appeal Communication to Group (Appeal Notice, Brief, Reply Brief) <input type="checkbox"/> Proprietary Information <input type="checkbox"/> Status Letter <input checked="" type="checkbox"/> Other Enclosure(s) <i>(please identify below):</i>  Preliminary Remarks Request for Continued Examination (RCE) Transmittal Return Postcard
Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Townsend and Townsend and Crew LLP James M. Heslin Reg. No. 29,541
Signature	
Date	April 12, 2004

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	JoAnn Evangelista		
Signature		Date	April 12, 2004

**FEE TRANSMITTAL  
for FY 2004**

Effective 10/01/2003. Patent fees are subject to annual revision.

☒ Applicant claims small entity status. See 37 CFR 1.27**TOTAL AMOUNT OF PAYMENT** (\$) \$515**Complete if Known**

Application Number	10/052,199
Filing Date	January 16, 2002
First Named Inventor	ADNAN SHENNIB
Examiner Name	DIONNE HARVEY
Art Unit	2643
Attorney Docket No.	022176-000610US / ISM-006CNT

**METHOD OF PAYMENT (check all that apply)**☐ Check ☐ Credit Card ☐ Money Order ☐ Other ☐ None☒ Deposit Account:Deposit  
Account  
Number

20-1430

Deposit  
Account  
Name

Townsend and Townsend and Crew LLP

The Director is authorized to: (check all that apply)

☒ Charge fee(s) indicated below ☒ Credit any overpayments☒ Charge any additional fee(s) or any underpayment of fee(s)☐ Charge fee(s) indicated below, except for the filing fee to the above-identified deposit account.**FEE CALCULATION****1. BASIC FILING FEE**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1001	770	2001	385	Utility filing fee	
1002	340	2002	170	Design filing fee	
1003	530	2003	265	Plant filing fee	
1004	770	2004	385	Reissue filing fee	
1005	160	2005	80	Provisional filing fee	

**SUBTOTAL (1)**

(\$)

**2. EXTRA CLAIM FEES FOR UTILITY AND REISSUE**

Total Claims		Extra Claims		Fee from below		Fee Paid
Independent Claims		**	=		=	
Multiple Dependent		**	=		=	

Large Entity		Small Entity		Fee Description
Fee Code	Fee (\$)	Fee Code	Fee (\$)	
1202	18	2202	9	Claims in excess of 20
1201	86	2201	43	Independent claims in excess of 3
1203	290	2203	145	Multiple dependent claim, if not paid
1204	86	2204	43	** Reissue independent claims over original patent
1205	18	2205	9	** Reissue claims in excess of 20 and over original patent

**SUBTOTAL (2)**

(\$)

\*\*or number previously paid, if greater; For Reissues, see above

**FEE CALCULATION (continued)****3. ADDITIONAL FEES**

Large Entity		Small Entity		Fee Description	Fee Paid
Fee Code	Fee (\$)	Fee Code	Fee (\$)		
1051	130	2051	65	Surcharge - late filing fee or oath	
1052	50	2052	25	Surcharge - late provisional filing fee or cover sheet	
1053	130	1053	130	Non-English specification	
1812	2,520	1812	2,520	For filing a request for reexamination	
1804	920*	1804	920*	Requesting publication of SIR prior to Examiner action	
1805	1,840*	1805	1,840*	Requesting publication of SIR after Examiner action	
1251	110	2251	55	Extension for reply within first month	
1252	420	2252	210	Extension for reply within second month	
1253	950	2253	475	Extension for reply within third month	
1254	1,480	2254	740	Extension for reply within fourth month	
1255	2,010	2255	1,005	Extension for reply within fifth month	
1401	330	2401	165	Notice of Appeal	
1402	330	2402	165	Filing a brief in support of an appeal	
1403	290	2403	145	Request for oral hearing	
1451	1,510	1451	1,510	Petition to institute a public use proceeding	
1452	110	2452	55	Petition to revive - unavoidable	
1453	1,330	2453	665	Petition to revive - unintentional	
1501	1,330	2501	665	Utility issue fee (or reissue)	
1502	480	2502	240	Design issue fee	
1503	640	2503	320	Plant issue fee	
1460	130	1460	130	Petitions to the Commissioner	
1807	50	1807	50	Petitions related to provisional applications	
1806	180	1806	180	Submission of Information Disclosure Stmt	
8021	40	8021	40	Recording each patent assignment per property (times number of properties)	
1809	770	2809	385	Filing a submission after final rejection (37 CFR § 1.129(a))	
1810	770	2810	385	For each additional invention to be examined (37 CFR § 1.129(b))	
1801	770	2801	385	Request for Continued Examination (RCE)	385
1802	900	1802	900	Request for expedited examination of a design application	

Other fee (specify)

37 CFR 1.17(i) Suspension of Action w/RCE

\*Reduced by Basic Filing Fee Paid **SUBTOTAL (3)**

(\$515)

**SUBMITTED BY****Complete (if applicable)**

Name (Print/Type)

James M. Heslin

Registration No. (Attorney/Agent)

29,541

Telephone

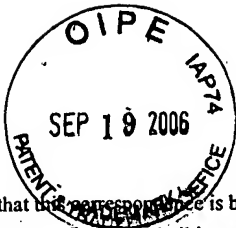
650-326-2400

Signature

Date

April 12, 2004





I hereby certify that the correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

MAIL STOP: RCE

Commissioner for Patents

P.O. Box 1450

Alexandria, VA 22313-1450 On April 12, 2004

TOWNSEND and TOWNSEND and CREW LLP

By:

Jo Ann Evangelista

PATENT

Attorney Docket No.: 022176-000610US

Client Ref. No.: ISM-006CNT

**IN THE UNITED STATES PATENT AND TRADEMARK OFFICE**

In re application of:

ADNAN SHENNIB et al.

Application No.: 10/052,199

Filed: January 16, 2002

For: DISPOSABLE EXTENDED  
WEAR CANAL HEARING  
DEVICE

Customer No.: 20350

Confirmation No. 9072

Examiner: DIONNE HARVEY

Technology Center/Art Unit: 2643

**PRELIMINARY REMARKS**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

Applicants have filed a Request for Continued Examination (RCE) in order to (1) submit formal substitute drawings, and (2) to file an Information Disclosure Statement. Both of these items will be submitted within 60 days of this RCE filing, and Applicants request that no action on this case be taken until the new papers have been received.

The undersigned is Applicant's new counsel and will be submitting a substitute Power of Attorney shortly.

Respectfully submitted,

James M. Heslin  
Reg. No. 29,541

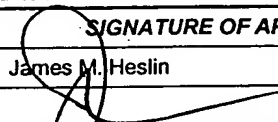
TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400 / Fax: 415-576-0300  
Attachments: RCE  
JMH:jke / 60192021 v1


<b>Request For Continued Examination (RCE) Transmittal</b>  Address to: Mail Stop RCE Commissioner for Patents P.O. Box 1450 Alexandria, VA 22313-1450	<b>Application Number</b>	10/052,199
	<b>Filing Date</b>	January 16, 2002
	<b>First Named Inventor</b>	ADNAN SHENNIB
	<b>Art Unit</b>	2643
	<b>Examiner Name</b>	DIONNE HARVEY
	<b>Attorney Docket Number</b>	022176-000610US/ISM-006CNT

This is a Request for Continued Examination (RCE) under 37 CFR 1.114 of the above-identified application. Request for Continued Examination (RCE) practice under 37 CFR 1.114 does not apply to any utility or plant application filed prior to June 8, 1995, or to any design application. See Instruction Sheet for RCEs (not to be submitted to the USPTO) on page 2.

1. **Submission required under 37 CFR 1.114** Note: If the RCE is proper, any previously filed unentered amendments and amendments enclosed with the RCE will be entered in the order in which they were filed unless applicant instructs otherwise. If applicant does not wish to have any previously filed unentered amendment(s) entered, applicant must request non-entry of such amendment(s).
- a. ☐ Previously submitted. If a final Office action is outstanding, any amendments filed after the final Office action may be considered as a submission even if this box is not checked.
- i. ☐ Consider the arguments in the Appeal Brief or Reply Brief previously filed on \_\_\_\_\_
- ii. ☐ Other \_\_\_\_\_
- b. ☒ Enclosed
- i. ☐ Amendment/Reply
- ii. ☐ Affidavit(s)/ Declaration(s)
- iii. ☐ Information Disclosure Statement (IDS)
- iv. ☒ Other **PRELIMINARY REMARKS**
2. **Miscellaneous**
- a. ☒ Suspension of action on the above-identified application is requested under 37 CFR 1.103(c) for a period of 2 months. (Period of suspension shall not exceed 3 months; Fee under 37 CFR 1.17(i) required)
- b. ☐ Other \_\_\_\_\_
3. **Fees** The RCE fee under 37 CFR 1.17(e) is required by 37 CFR 1.114 when the RCE is filed.
- a. ☒ The Director is hereby authorized to charge the following fees, or credit any overpayments, to Deposit Account No. 20-1430
- i. ☒ RCE fee required under 37 CFR 1.17(e)
- ii. ☐ Extension of time fee (37 CFR 1.136 and 1.17)
- iii. ☒ Other **37 CFR 1.17(I) fee**
- b. ☐ Check in the amount of \$ \_\_\_\_\_ enclosed
- c. ☐ Payment by credit card (Form PTO-2038 enclosed)

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization of PTO-2038.

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT REQUIRED			
<b>Name (Print /Type)</b>	James M. Heslin	<b>Registration No. (Attorney/Agent)</b>	29,541
<b>Signature</b>		<b>Date</b>	April 12, 2004

CERTIFICATE OF MAILING OR TRANSMISSION		
I hereby certify that this correspondence is being deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Mail Stop RCE, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450, or facsimile transmitted to the U.S. Patent and Trademark Office on the date shown below.		
<b>Name (Print /Type)</b>	JoAnn Evangelista	
<b>Signature</b>		<b>Date</b>
		April 12, 2004



TO THE U.S. PATENT AND TRADEMARK OFFICE  
Please stamp the date of receipt of the following document(s) and return  
this card to us:

RE: SHENNIB

TITLE OF DOCUMENT(S):

Transmittal Form  
Information Disclosure Statement  
Fee Authorization (see Page 2)  
PTO/SB/08A & PTO/SB/08B  
35 Reference Copies



Application No 10/052,199

File No 022176-000610US

Date due \_\_\_\_\_

Date Mailed 05/11/04

Atty/Secty. JMH/jke

60213565 v1

TO THE U.S. PATENT AND TRADEMARK OFFICE  
Please stamp the date of receipt of the following document(s) and return  
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RE: SHENNIB

TITLE OF DOCUMENT(S):

Transmittal Form  
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PTO/SB/08A & PTO/SB/08B  
35 Reference Copies

Application No 10/052,199

File No 022176-000610US

Date due \_\_\_\_\_

Date Mailed 05/11/04

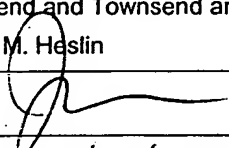
Atty/Secty. JMH/jke

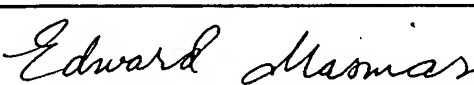
60213565 v1

<b>TRANSMITTAL FORM</b> (to be used for all correspondence after initial filing)		Application Number	10/052,199
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		Examiner Name	DIONNE HARVEY
Total Number of Pages in This Submission		Attorney Docket Number	022176-000610US

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Remarks		The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.

COPY

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT	
Firm or Individual	Townsend and Townsend and Crew LLP James M. Heslin Reg. No. 29,541
Signature	
Date	5/10/04

CERTIFICATE OF TRANSMISSION/MAILING			
I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.			
Typed or printed name	Edward Masinas		
Signature		Date	5-11-04

I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to:

PATENT  
Attorney Docket No.: 022176-000610US  
Client Reference No.: ISM-006CNT

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

On

5-11-04



TOWNSEND and TOWNSEND and CREW LLP

By:

*Edward Masinas*

Edward Masinas

IN THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re application of:

ADNAN SHENNIB et al.

Application No.: 10/052,199

Filed: January 16, 2002

For: DISPOSABLE EXTENDED WEAR  
CANAL HEARING DEVICE

Examiner: DIONNE HARVEY

Art Unit: 2643

INFORMATION DISCLOSURE  
STATEMENT UNDER 37 CFR §1.97 and  
§1.98

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Sir:

The references cited on attached form PTO/SB/08A and PTO/SB/08B are being called to the attention of the Examiner. Copies of the references are enclosed.

It is respectfully requested that the cited references be expressly considered during the prosecution of this application, and the references be made of record therein and appear among the "references cited" on any patent to issue therefrom.

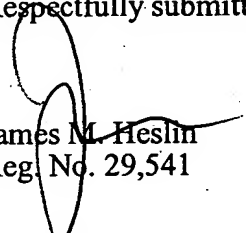
As provided for by 37 CFR 1.97(g) and (h), no inference should be made that the information and references cited are prior art merely because they are in this statement and no representation is being made that a search has been conducted or that this statement encompasses all the possible relevant information.

This Information Disclosure Statement is being filed before the mailing date of the final Office Action or Notice of Allowance.

Applicant believes that no fee is required for submission of this statement.

However, if a fee is required, the Commissioner is authorized to deduct such fee from the undersigned's Deposit Account No. 20-1430. Please deduct any additional fees from, or credit any overpayment to, the above-noted Deposit Account.

Respectfully submitted,



James M. Heslin  
Reg. No. 29,541

TOWNSEND and TOWNSEND and CREW LLP  
Two Embarcadero Center, Eighth Floor  
San Francisco, California 94111-3834  
Tel: 650-326-2400  
Fax: 650-326-2422  
JMH:bjl



Substitute for form 1449B/PTO  <b>INFORMATION DISCLOSURE STATEMENT BY APPLICANT</b>  (use as many sheets as necessary)			<b>Complete if Known</b>		
			Application Number	10/052,199	
			Filing Date	January 16, 2002	
			First Named Inventor	SHENNIB, ADNAN	
			Art Unit	2643	
			Examiner Name	DIONNE HARVEY	
Sheet	2	of	2	Attorney Docket Number	022176-000610US

FOREIGN PATENT DOCUMENTS								
Examiner Initials*	Cite No. <sup>1</sup>	Foreign Patent Document			Publication Date MM-DD-YYYY	Name of Patentee or Applicant of Cited Document	Pages, Columns, Lines, Where Relevant Passages or Relevant Figures Appear	T <sup>2</sup>
		Country Code <sup>3</sup>	Number <sup>4</sup>	Kind Code <sup>5</sup> (if known)				
								<input type="checkbox"/>

NON PATENT LITERATURE DOCUMENTS			
Examiner Initials *	Cite No. <sup>1</sup>	Include name of the author (in CAPITAL LETTERS), title of the article (when appropriate), title of the item (book, magazine, journal, serial, symposium, catalog, etc.), date, page(s), volume-issue number(s), publisher, city and/or country where published.	T <sup>2</sup>
	BH	Chasin, Marshall, <i>CIC Handbook</i> , Singular Publishing Group, Inc., (1997) pp. 12-14, 17-18, 27-28, 44, 56-58, 65-66.	
	BI	Oliveira, Robert J., Navarro, Richard, "The Wax Problem: Two New Approaches," <i>The Hearing Journal</i> (August 1993) Vol. 46, No. 8, pp. 41-46.	

60208894 v1

Examiner Signature		Date Considered	
-----------------------	--	--------------------	--

\* EXAMINER: Initial if reference considered, whether or not citation is in conformance with MPEP 609. Draw line through citation if not in conformance and not considered. Include copy of this form with next communication to applicant.

<sup>1</sup> Applicant's unique citation designation number (optional). <sup>2</sup> Applicant is to place a check mark here if English language Translation is attached.

60208894 v1





## Auto-Reply Facsimile Transmission



TO:

Fax Sender at 16503262422

Fax Information

Date Received:

Total Pages:

9/13/2004 8:54:52 PM [Eastern Daylight Time]

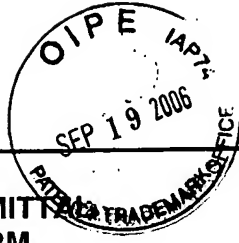
4 (including cover page)

**ADVISORY:** This is an automatically generated return receipt confirmation of the facsimile transmission received by the Office. Please check to make sure that the number of pages listed as received in Total Pages above matches what was intended to be sent. Applicants are advised to retain this receipt in the unlikely event that proof of this facsimile transmission is necessary. Applicants are also advised to use the certificate of facsimile transmission procedures set forth in 37 CFR 1.8(a) and (b), 37 CFR 1.6(f). Trademark Applicants, also see the Trademark Manual of Examining Procedure (TMEP) section 306 et seq.

Received  
Cover  
Page

=====>

SEP. 13. 2004 4:56PM TTC-FR 650-326-2422		NO. 661 P. 1/4
<div><div><b>TOWNSEND</b> and <b>TOWNSEND</b> and <b>CREW</b> LLP</div><div><b>San Francisco, California</b> Tel 415 678-0200 <b>Walnut Creek, California</b> Tel 925 472-0000 <b>San Diego, California</b> Tel 619 350-6100 <b>Denver, Colorado</b> Tel 303 571-4000 <b>Seattle, Washington</b> Tel 206 457-9600</div><div><b>Palo Alto</b>  <b>370 Lytton Avenue</b> <b>Palo Alto</b> <b>California 94301-1431</b> <b>Tel 650-326-2400</b> <b>Fax 650-326-2422</b></div></div>		
<b>FACSIMILE COVER SHEET</b>		
<b>Date:</b> September 13, 2004	<b>Client &amp; Matter Number:</b> 022176-000610US	<b>No. Pages (including this one):</b> 4
<b>To:</b> Dionne Harvey USPTO	<b>AI Fax Number:</b> (703) 872-9306	<b>Confirmation Phone Number:</b>
<b>From:</b> Joel M. Harris (5129)		
<b>Message:</b> Attached are the Transmittal Form, Revocation of Power of Attorney with New Power of Attorney and Change of Correspondence Address, and Statement Under 37 CFR 3.73(b) for U.S. Patent Application Serial No. 10/052,199 filed 1/16/02.		
60307862 v1		
<b>Original Will:</b>	<input type="checkbox"/> BE SENT BY MAIL	<input type="checkbox"/> BE SENT BY FEDEX/GOVERNMENT COURIER
	<input type="checkbox"/> BE SENT BY MESSENGER	<input checked="" type="checkbox"/> NOT BE SENT
<b>Faxed:</b> Return to: Marcia Shea - (5451)		
If you have problems with reception please call Fax Services at extension 5565		
<b>Important</b>		
<small>This message is intended only for the use of the individual or entity to which it is addressed and may contain information that is privileged, confidential, and/or exempt from disclosure by applicable law or court order. If the reader of this message is not the intended recipient, or the employee or agent responsible for delivering the message to the intended recipient, you are hereby notified that any dissemination, distribution, or copying of this communication is strictly prohibited. If you have received this communication in error, please notify us immediately by telephone and return the original message to us at the above address via the United States Postal Service. Thank you.</small>		
60307862 v1		



PTO/SB/21 (04-04)

**TRANSMITTAL  
FORM**

(to be used for all correspondence after initial filing)

Application Number	10/052,199
Filing Date	January 16, 2002
First Named Inventor	SHENNIB, ADNAN
Art Unit	2643
Examiner Name	DIONNE HARVEY
Attorney Docket Number	022176-000610US

Total Number of Pages in This Submission

**ENCLOSURES (Check all that apply)**

- |  |   |   |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form<br><input type="checkbox"/> Fee Attached<br><input type="checkbox"/> Amendment/Reply<br><input type="checkbox"/> After Final<br><input type="checkbox"/> Affidavits/declaration(s)<br><input type="checkbox"/> Extension of Time Request<br><input type="checkbox"/> Express Abandonment Request<br><input type="checkbox"/> Information Disclosure Statement<br><input type="checkbox"/> Certified Copy of Priority Document(s)<br><input type="checkbox"/> Response to Missing Parts/<br>Incomplete Application<br><br><input type="checkbox"/> Response to Missing Parts<br>under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)<br><input type="checkbox"/> Licensing-related Papers<br><input type="checkbox"/> Petition<br><input type="checkbox"/> Petition to Convert to a<br>Provisional Application<br><input checked="" type="checkbox"/> Power of Attorney, Revocation<br>Change of Correspondence Address<br><input type="checkbox"/> Terminal Disclaimer<br><input type="checkbox"/> Request for Refund<br><input type="checkbox"/> CD, Number of CD(s) _____ | <input type="checkbox"/> After Allowance Communication<br>to Technology Center (TC)<br><input type="checkbox"/> Appeal Communication to Board<br>of Appeals and Interferences<br><input type="checkbox"/> Appeal Communication to TC<br>(Appeal Notice, Brief, Reply Brief)<br><input type="checkbox"/> Proprietary Information<br><input type="checkbox"/> Status Letter<br><input checked="" type="checkbox"/> Other Enclosure(s) (please<br>identify below):<br>Statement Under 37 CFR 3.73(b) |
|--|---|---|

Remarks	The Commissioner is authorized to charge any additional fees to Deposit Account 20-1430.
---------	--

**SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT**

Firm or Individual name	Townsend and Townsend and Crew LLP Joel M. Harris	Reg. No. 44,743
Signature		
Date	9/10/04	

**CERTIFICATE OF TRANSMISSION/MAILING**I hereby certify that this correspondence is being facsimile transmitted to the Patent and Trademark Office, Fax No. (703) 872-9306 on  
9/13/04

Typed or printed name Marcia D. Shea

Signature

Date

9/13/04



PTO/SB/82 (09-03)

**REVOCATION OF POWER OF  
ATTORNEY WITH  
NEW POWER OF ATTORNEY  
AND  
CHANGE OF CORRESPONDENCE ADDRESS**

Application Number	10/052,199
Filing Date	01/16/2002
First Named Inventor	Adnan Shennib et al.
Art Unit	2643
Examiner Name	Harvey Dionne
Attorney Docket Number	022176-000610US

I hereby revoke all previous powers of attorney given in the above-identified application:

☐ A Power of Attorney is submitted herewith.

OR

☒ I hereby appoint the practitioners associated with the Customer Number:

**20350**

☒ Please change the correspondence address for the above-identified application to:

☒ The address associated with  
Customer Number:

**20350**

OR

☐ Firm or  
Individual Name

Address

Address

City

State

ZIP

Country

Telephone

Fax

I am the:

☐ Applicant/Inventor.

☒ Assignee of record of the entire interest. See 37 CFR 3.71.  
Statement under 37 CFR 3.73(b) is enclosed. (Form PTO/SB/96)

**SIGNATURE of Applicant or Assignee of Record**

Name Susan Whichard, Vice President, InSound Medical, Inc.

Signature

*Susan Whichard*

Date

9-7-04

Telephone

510-792-4000

NOTE: Signatures of all the inventors or assignees of record of the entire interest or their representative(s) are required. Submit multiple forms if more than one signature is required, see below\*.

☐ \*Total of \_\_\_\_\_ forms are submitted.



PTO/SB/96 (08-03)

Attorney Docket No. 022176-000610US  
Client Ref. No. ISM-006CNT**STATEMENT UNDER 37 CFR 3.73(b)**Applicant/Patent Owner: Insonus Medical, Inc., (now InSound Medical, Inc.—see attached merger document 01/08/2002)Application No./Patent No.: 10/052,199 (CON of 09/327,717)Filed/Issue Date: 01/16/2002Entitled: Disposable Extended Wear Canal Hearing DeviceInSound Medical, Inc., a Corporation

(Name of Assignee)

(Type of Assignee, e.g., corporation, partnership, university, government agency, etc.)

states that it is:

1. ☒ the assignee of the entire right, title, and interest; or
2. ☐ an assignee of less than the entire right, title and interest.  
The extent (by, percentage) of its ownership interest is \_\_\_\_\_%

in the patent application/patent identified above by virtue of either:

- A. ☒ An assignment from the inventor(s) of the patent application/patent identified above. The assignment was recorded in the United States Patent and Trademark Office at Reels 010037 and 010037, Frames 0581 and 0590, respectively, or for which a copy thereof is attached.

OR

- B. ☐ A chain of title from the inventor(s), of the patent application/patent identified above, to the current assignee as shown below:

1. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

2. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.

3. From: \_\_\_\_\_ To: \_\_\_\_\_

The document was recorded in the United States Patent and Trademark Office at  
Reel \_\_\_\_\_, Frame \_\_\_\_\_, or for which a copy thereof is attached.☐ Additional documents in the chain of title are listed on a supplemental sheet.

- ☒ Copies of assignments or other documents in the chain of title are attached.

[NOTE: A separate copy (i.e., the original assignment document or a true copy of the original document) must be submitted to Assignment Division in accordance with 37 CFR Part 3, if the assignment is to be recorded in the records of the USPTO. See MPEP 302.8]

The undersigned (whose title is supplied below) is authorized to act on behalf of the assignee.

9-7-04

Date

510-792-4000

Telephone number

Susan Whichard

Typed or printed name

Susan Whichard

Signature

CEO, InSound Medical, Inc.

Title



UNITED STATES PATENT AND TRADEMARK OFFICE

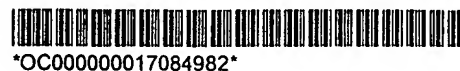
022176-000610US

UNITED STATES DEPARTMENT OF COMMERCE  
 United States Patent and Trademark Office  
 Address: COMMISSIONER FOR PATENTS  
 P.O. Box 1450  
 Alexandria, Virginia 22313-1450  
 www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/052,199	01/16/2002	Adnan Shennib	022176-000610US

20350  
 TOWNSEND AND TOWNSEND AND CREW, LLP  
 TWO EMBARCADERO CENTER  
 EIGHTH FLOOR  
 SAN FRANCISCO, CA 94111-3834

CONFIRMATION NO. 9072



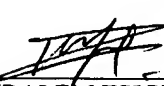
\*OC000000017084982\*

Date Mailed: 09/22/2005

### NOTICE OF ACCEPTANCE OF POWER OF ATTORNEY

This is in response to the Power of Attorney filed 09/13/2005.

The Power of Attorney in this application is accepted. Correspondence in this application will be mailed to the above address as provided by 37 CFR 1.33.

  
 WUBALEM TSIGE  
 PTOSS (703) 305-3006

ATTORNEY/APPLICANT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NUMBER	FILING OR 371 (c) DATE	FIRST NAMED APPLICANT	ATTY. DOCKET NO./TITLE
10/052,199	01/16/2002	Adnan Shennib	ISM/006CNT

CONFIRMATION NO. 9072

Donald R. Greene  
P.O. Box 12995  
Scottsdale, AZ 85267-2995



\*OC000000017084935\*


Date Mailed: 09/22/2005

**NOTICE REGARDING CHANGE OF POWER OF ATTORNEY**

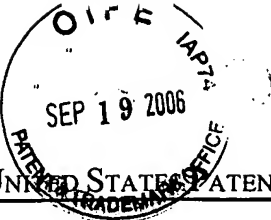
This is in response to the Power of Attorney filed 09/13/2005.

- The Power of Attorney to you in this application has been revoked by the assignee who has intervened as provided by 37 CFR 3.71. Future correspondence will be mailed to the new address of record(37 CFR 1.33).



  
WUBALEM TSIGE  
PTOSS (703) 305-3006

NEW ATTORNEY/AGENT COPY



UNITED STATES PATENT AND TRADEMARK OFFICE

022176-000610US

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

JFH/PA

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	01/16/2002	Adnan Shennib	022176-000610US	9072

20350 7590 10/17/2005

TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO, CA 94111-3834

EXAMINER

HARVEY, DIONNE

ART UNIT	PAPER NUMBER
----------	--------------

2643

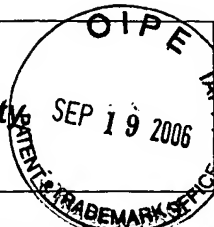
DATE MAILED: 10/17/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

JFH

Seppel

Notice of Allowability



Application No.

10/052,199

Examiner

Dionne N. Harvey

Applicant(s)

SHENNIB ET AL.

Art Unit

2646

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to IDS filed 5/11/2004.
2. ☒ The allowed claim(s) is/are 1,3,5-12,14,15,17-19,21,22,24,29-35 and 38.
3. ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.  
**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

4. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  5. ☐ CORRECTED DRAWINGS (as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review (PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
6. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☐ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date \_\_\_\_\_
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_
7. ☐ Examiner's Amendment/Comment
8. ☐ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_

**SINH TRAN**  
**SUPERVISORY PATENT EXAMINER**





UNITED STATES PATENT AND TRADEMARK OFFICE

022176-000610US  
JTH PA

UNITED STATES DEPARTMENT OF COMMERCE  
United States Patent and Trademark Office  
Address: COMMISSIONER FOR PATENTS  
P.O. Box 1450  
Alexandria, Virginia 22313-1450  
www.uspto.gov

APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/052,199	04/18/2006	Adnan Shennib	022176-000610US	9072

20350 7590 04/18/2006

TOWNSEND AND TOWNSEND AND CREW, LLP  
TWO EMBARCADERO CENTER  
EIGHTH FLOOR  
SAN FRANCISCO, CA 94111-3834

EXAMINER

PENDLETON, DIONNE

ART UNIT

PAPER NUMBER

2615

DATE MAILED: 04/18/2006

NOT ABANDONED Check Abandoned Status:  
IN DOCKET 06/18/06

Please find below and/or attached an Office communication concerning this application or proceeding.

Kee!



# **Notice of Abandonment**

Application No.

10/052,199

Examiner

PENDLETON

Applicant(s)

Shennib

Art Unit

2615

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

This application is abandoned in view of:

1. ☐ Applicant's failure to timely file a proper reply to the Office letter mailed on \_\_\_\_\_.
  - (a) ☐ A reply was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply (including a total extension of time of \_\_\_\_\_ month(s)) which expired on \_\_\_\_\_.
  - (b) ☐ A proposed reply was received on \_\_\_\_\_, but it does not constitute a proper reply under 37 CFR 1.113 (a) to the final rejection.  
(A proper reply under 37 CFR 1.113 to a final rejection consists only of: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114).
  - (c) ☐ A reply was received on \_\_\_\_\_ but it does not constitute a proper reply, or a bona fide attempt at a proper reply, to the non-final rejection. See 37 CFR 1.85(a) and 1.111. (See explanation in box 7 below).
  - (d) ☐ No reply has been received.
2. ☒ Applicant's failure to timely pay the required issue fee and publication fee, if applicable, within the statutory period of three months from the mailing date of the Notice of Allowance (PTOL-85).
  - (a) ☐ The issue fee and publication fee, if applicable, was received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the statutory period for payment of the issue fee (and publication fee) set in the Notice of Allowance (PTOL-85).
  - (b) ☐ The submitted fee of \$\_\_\_\_\_ is insufficient. A balance of \$\_\_\_\_\_ is due.  
The issue fee required by 37 CFR 1.18 is \$\_\_\_\_\_. The publication fee, if required by 37 CFR 1.18(d), is \$\_\_\_\_\_.
  - (c) ☒ The issue fee and publication fee, if applicable, has not been received.
3. ☐ Applicant's failure to timely file corrected drawings as required by, and within the three-month period set in, the Notice of Allowability (PTO-37).
  - (a) ☐ Proposed corrected drawings were received on \_\_\_\_\_ (with a Certificate of Mailing or Transmission dated \_\_\_\_\_), which is after the expiration of the period for reply.
  - (b) ☐ No corrected drawings have been received.
4. ☐ The letter of express abandonment which is signed by the attorney or agent of record, the assignee of the entire interest, or all of the applicants.
5. ☐ The letter of express abandonment which is signed by an attorney or agent (acting in a representative capacity under 37 CFR 1.34(a)) upon the filing of a continuing application.
6. ☐ The decision by the Board of Patent Appeals and Interference rendered on \_\_\_\_\_ and because the period for seeking court review of the decision has expired and there are no allowed claims.
7. ☐ The reason(s) below:

slk

Petitions to revive under 37 CFR 1.137(a) or (b), or requests to withdraw the holding of abandonment under 37 CFR 1.181, should be promptly filed to minimize any negative effects on patent term.



## **Attachment to Notice of Abandonment**

**For questions concerning the notice contact**

**Office of Patent Publication**

**Image Assistance Center: 888-786-0101.**

Information is also available on the USPTO Internet web site:  
<http://www.uspto.gov/web/patents/pubs/abandonnotice.html>

### **Respond to the Notice of Abandonment by one of the following:**

#### **1. Petition To Withdraw Holding of Abandonment (See MPEP 711.03(c) I and 37 CFR § 1.181) No fee required**

Where an applicant contends that the application is not in fact abandoned (e.g., a reply was in fact filed), a petition under 37 CFR § 1.181(a) requesting withdrawal of the holding of abandonment is the appropriate course of action. Any petition under 37 CFR § 1.181 to withdraw the holding of abandonment not filed within 2 months of the mail date of a Notice of Abandonment may be dismissed as untimely under 37 CFR § 1.181(f). In order for a petition to be granted, the evidence must be sufficient according to 37 CFR § 1.8(b) Certificate of Mailing 37 CFR § 1.10 "Express Mail" mailing or MPEP 503 Postcard Receipt as Prima Facie Evidence. The petition should be addressed as follows:

By mail: Mail Stop: Issue Fee, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 703-872-9306

#### **2. Petition To Withdraw Holding Of Abandonment Based On Failure To Receive Office Action (MPEP 711.03(c) II and 37 CFR § 1.181). No fee required**

Where an applicant contends that the original Notice of Allowance and Fee(s) Due was never received, if adequately supported, the Office may grant the petition and remail the Office action. The showing required establishing non-receipt of an Office communication must include a statement from the practitioner stating that the Office communication was not received and attesting to the fact that a search of the file jacket and docket records indicates that the Office communication was not received. A copy of the docket record where the nonreceived Office would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement.

Petition should be addressed to the Technology Center handling the application as follows:

By mail: Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 703-872-9306

#### **3. Petition To Revive An Abandoned Application (See MPEP 711.03(c) III)**

Where there is no dispute as to whether an application is abandoned (e.g., the applicant's contentions merely involve the cause of abandonment) a petition under 37 CFR § 1.137 (a) or (b) (accompanied by the appropriate petition fee) is necessary to revive the abandoned application. The text of these rules is available on the USPTO Internet Web site. Forms for these petitions, "Petition For Revival Of An Application For Patent Abandoned Unavoidably Under 37 CFR § 1.137(a)," PTO/SB/61, and "Petition For Revival Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137(b)," PTO/SB/64, are available in the forms section of the USPTO website: <http://www.uspto.gov>.

Petitions under 37 CFR § 1.137 should be addressed to the Office of Petitions as follows:

By mail: Mail Stop Petition, Commissioner For Patents, P.O. Box 1450, Alexandria, VA 22313-1450

By facsimile: 703-872-9306

Note: Abandonment takes place by operation of law for failure to reply to an Office action or timely pay the issue fee, not by operation of the mailing of a Notice of Abandonment